

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EMMANUEL JOSH MILLER,)	
Petitioner)	Civil Action No. 12-206 Erie
)	
v.)	Magistrate Judge Baxter
)	
COURT OF COMMON PLEAS)	
ERIE COUNTY, PA, et al.,)	
Respondents.)	

REPORT AND RECOMMENDATION

AND NOW, this 4th day of October, 2012, after Petitioner has filed a petition for writ of habeas corpus, which he seeks leave to prosecute *in forma pauperis*, and it appearing that he has an average monthly balance of \$ 23.35 in his account at the State Correctional Institution at Houtzdale, Pennsylvania, which sum exceeds the filing fee required to commence this action, and it further appearing that requiring the Petitioner to pay the filing fee will not deprive him of any necessities of life at the prison,

It is recommended that leave to proceed in forma pauperis be denied.

 In accordance with the Federal Magistrates Act, 28 U.S.C. § 636(b)(1), and Fed.R.Civ.P. 72(b)(2), the parties are allowed fourteen (14) days from the date of service to file written objections to this report and recommendation. Any party opposing the objections shall have fourteen (14) days from the date of service of objections to respond thereto. Failure to file objections will waive the right to appeal. Brightwell v. Lehman, 637 F. 3d 187, 193 n. 7 (3d Cir. 2011).

S/Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge